IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

STC No. 28 of 2002

Date of decision 2.5.2007

Food Corporation of India .. petitioner

Versus

State of Punjab .. Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr.KL Goyal, Advocate for the petitioner

Mr. Amol Rattan Singh Sidhu, Addl. AG Punjab .

M.M.Kumar, J.

The Food Corporation of India- petitioner has sought a direction to the Sales Tax Tribunal, Punjab to draw a statement of the case and refer the questions of law, which are said to have arisen out of its order dated 24.8.1998, in respect of the assessment year 1971-72 passed under Central Sales Tax Act,1956. The following questions have been claimed:

" (a) Whether in the facts and circumstances of the present case, the Tribunal was justified in dismissing the appeal and confirming the levy of interest, when the original demand itself was in dispute and under challenge;

(b) Whether in the facts and circumstances of the present case,

any interest could be levied on the dealer when the original additional demand was already under challenge in appeal, and the appeal had not even been finally decided on merits; and

c) Whether in the facts and circumstances of the present case, was it proper to hold that since the instructions under reference were not a part of the statute, therefore, the same could be treated to be without any authority of law?".

However, at the time of hearing, learned counsel for the petitioner has stated that he would confine its claim only to waiver of interest in respect of two months namely February and March, 1972. He has based his claim on a settlement deed dated 15.3.1979 executed between the Food Corporation of India and respondent for the period February, 1972 to March, 1975. A copy of the aforementioned settlement has been placed on record as Mark "A" which reads that a sum of Rs. 8,58,63,041.03 being adhoc assistance in lieu of the purchase/ sales tax on rice/wheat withheld by the Food Corporation of India for the period from 2/72 to 3/75 was paid by the Government of India to the State of Punjab on the basis of reconciliation and in consultation with the Food and Supplies Department. A sum of Rs.1,65,30,612.45 was also paid by the Food Corporation of India to the Excise and Taxation Department during the afore-mentioned period. The above said adhoc payment was part of deal which the Government of India paid to the State Government in lieu of the amount withheld by the FCI as sales/ purchase tax on procurement of paddy/wheat for the period in question.

The afore-mentioned position in settlement could not be successfully disputed by the respondent.

In view of the above, we dispose of the petition by holding that the Food Corporation of India- petitioner shall be entitled to waiver of interest for a period of two months i.e. February and March, 1972.

The petition stands disposed of accordingly.

(M.M.Kumar)
Judge

(Rajesh Bindal)
Judge

2.5 .2007
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